

**UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

Mind Your Business, Inc.

Plaintiff,

v.

United States,

Defendant.

No. 1:20-cv-00429-DAT
(Judge David A. Tapp)

ISN Corporation's Motion to Intervene (Unopposed)

Information Systems and Networks Corporation ("ISN"), as the awardee under Solicitation No. 1630DC-19-Q-00009, moves to intervene in this protest pursuant to RCFC 24(a). The Government and Mind Your Business have both told ISN that they do not oppose ISN's intervention.

ISN should be allowed to intervene as of right under RCFC 24(a), which states:

On timely motion, the court must permit anyone to intervene who[] . . . claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

These requirements "are to be construed in favor of intervention." *Am. Mar. Transp., Inc. v. United States*, 870 F.2d 1559, 1561 (Fed. Cir. 1989). The Court, moreover, has recognized that a successful awardee has standing to intervene as of right in a bid protest. *See Emerald Coast Finest Produce Co. v. United States*, 74 Fed. Cl. 679, 680–81 (2006).

ISN satisfies each of these requirements.

First, ISN's intervention is timely-filed less than one business day after it received notice

of Mind Your Business's protest. *See Wackenhut Servs., Inc. v. United States*, 85 Fed. Cl. 273, 288 (2008) (motion to intervene timely-filed two days after protester filed its complaint).

Therefore, this motion to intervene is timely.

Second, ISN has an interest relating to the transaction at issue in this bid protest. It is the awardee of the order protested by Mind Your Business, and this award may be jeopardized by the protest. ISN has acted diligently to protect its interests relating to this procurement, twice intervening at GAO to defend its award before this instant protest was filed. Disposition of this protest without ISN's intervention may, as a practical matter, impair or impede ISN's ability to protect its interest in its award. Thus, ISN should be allowed to intervene to protect its interest.

Third, ISN's intervention is necessary because no other party will adequately represent its interests. Mind Your Business's interests are opposed to ISN's, as it seeks to overturn ISN's award. The Government, moreover, is only responsible for representing its interests, not necessarily protecting ISN's award. *See Coastal Int'l Sec., Inc. v. United States*, 93 Fed. Cl. 502, 526 (2010) (allowing awardee to intervene in protest in part because the Government is not responsible for representing the awardee's interests); *see also Northrop Grumman Info. Tech., Inc. v. United States*, 74 Fed. Cl. 407, 417 (2006) (citing cases noting the "minimal" burden to show the inadequacy of representation). This protest is also likely to delay progress under ISN's award, if not upend that award entirely. ISN should be allowed to intervene to protect its award.

Because ISN has timely asked for the opportunity to defend its award from Mind Your Business's allegations, it should be allowed to intervene in this protest under RCFC 24(a). But even if ISN is not entitled to intervene as of right, it should nonetheless still be allowed to intervene with the Court's permission. Permissive intervention is allowed where, as here, a movant shares a common claim or defense with the main action and its intervention will not

delay the action. See RCFC 24(b). That's the case here, as ISN seeks to defend its award from Mind Your Business's allegations, and its intervention will not prejudice or delay the matter, but instead lead to a full resolution on the merits.

As an awardee, ISN should be allowed to intervene in this protest. It therefore asks the Court to grant this unopposed motion.

Dated: April 14, 2020

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Respectfully submitted,

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